

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 85-0489-RGS

UNITED STATES OF AMERICA

v.

METROPOLITAN DISTRICT COMMISSION, et al.

CIVIL ACTION NO. 83-1614-RGS

CONSERVATION LAW FOUNDATION
OF NEW ENGLAND, INC.

v.

METROPOLITAN DISTRICT COMMISSION

SCHEDULE SEVEN
COMPLIANCE ORDER NUMBER 238

December 21, 2015

STEARNS, D.J.

This is the two hundred and thirty-eighth Compliance Order that has issued over the course of this litigation (and as will become apparent, this Order marks a special milestone in a decades-long undertaking). On December 15, 2015, the Massachusetts Water Resources Authority (MWRA) filed its Quarterly Compliance and Progress Report. The United States and the Conservation Law Foundation have each declined to file a response.

I. Schedule Seven

Completed activities on the court's Schedule Seven during the past quarter (as certified by Executive Director Frederick A. Laskey) are summarized below.

1. Combined Sewer Overflow (CSO) Program

a. Control Gate and Floatables Control at Outfall MWROO3 and Rindge Avenue Siphon Relief

Work on the Control Gate and Floatables Control and the Ridge Avenue Siphon were completed (with the exception of punch list items and surface restoration work) on October 28, 2015, as anticipated by Schedule Seven. The MWRA reports that the 48-inch siphon, the underflow baffles for floatables control, and the automated weir gate are now fully operational. The MWR003 project provides essential support for the regulation of CSO discharges to Alewife Brook and for flood control in tributary sewer systems during extreme storm events.

b. CAM004 Sewer Separation

The City of Cambridge and its Department of Public Works deserve high praise for their efforts in overcoming the delays that had threatened the timely completion of the CAM004 sewer separation, the last of the 35 capital projects in the CSO Program. On November 2, 2015, accompanied by Director Laskey, members of his staff, and my Senior Law Clerk, Marsha

Zierk, the court met with Commissioner Owen O’Riordan of the Cambridge DPW and other City officials to take a walking tour of the project site as part of a briefing on the steps that the City had taken to accelerate work on the remaining components of the project. These included bringing additional managerial and engineering resources to bear and deferring non-CSO control work to focus on the essential CSO components.

Commissioner O’Riordan, his staff, and the City, have met all expectations. Contract 8A, which separated the combined sewers in the 68-acre area east of Fresh Pond Parkway, is fully complete. Thanks to the successful resolution of the previously reported issues delaying work on the Concord Lane project, this contract is also completed. The same is true of Contract 8B, which separated combined sewers in an 83-acre site between Concord Avenue and Brattle Street. The completion of Contract 8B had the desired effect of relieving pressure on related construction work in the Contract 9 area. Contract 9, which provides for sewer separation in the 60-acre area extending from Fresh Pond Parkway to the intersection of Concord and Huron Avenues, was completed three days ahead of schedule, more precisely today, December 21, 2015. This final work on the CAM004 sewer separation project marks the completion of all 35 of the capital projects scheduled in the Long-Term CSO Control Plan. Only surface restoration

work and testing will remain to be done over the next two years.¹

c. Reserved Channel Sewer Separation

On December 11, 2015, the Boston Water and Sewer Commission (BWSC) attained substantial completion of the last of the nine contracts that comprise this project, in compliance with Schedule Seven. All stormwater removed from local sewer systems will now drain into the Reserved Channel. The project is designed to reduce the annual number of CSO activations in the Reserved Channel from 37 to 3, as well as to achieve a 95% reduction by volume in the total annual CSO discharge (from 28 million gallons to 1.5 million gallons). As reported by the MWRA, this will bring the Reserve Channel into compliance with the target Massachusetts Water Quality Standards designation of B(cso).

The magnitude of the work accomplished by the BWSC is reflected in the raw figures. The BWSC has separated its combined sewers in a 365-acre tract of South Boston. This involved installing 8.4 miles of mainline storm

¹ On a personal note, I am very impressed with the surface restoration work that is now underway in Cambridge, especially the innovative and attractive “green” storm water runoff basins that are being installed. The restoration work, together with the Alewife Reservation Constructed Wetland, a “green” remediation project that transformed a squalid expanse of land behind the Alewife Brook T Station into a stunningly beautiful urban park, will be enduring gifts to the City and citizens of Cambridge who have endured the disruptions and inconveniences that this massive (and necessary) undertaking has entailed.

drain pipe and 3.7 miles of smaller diameter drain connections. The BWSC also refurbished 3.3 miles of sanitary sewer and disconnected hundreds of unauthorized building roof drains and downspouts.

II. Comments

The court is gratified that the Long-Term CSO Control Plan can now be declared to be substantially complete. Work was done largely within budget and in compliance with the timetable envisioned by Schedule Seven. The court extends its congratulations to the MWRA, the BWSC, the City of Cambridge, and all those who over the last twenty years have dedicated themselves to bringing this critical environmental project to a successful fruition. As previously noted, only surface restoration work and system testing remains to be done.

ORDER

With the successful completion of Schedule Seven, the court will now revise the Scheduling Order to require biannual (in lieu of quarterly) Compliance Reports. Number 239 in the series will be submitted to the court by the MWRA on or before June 30, 2016.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE